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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,014	02/01/2005	Yvonne M Yannoni	08702-0097	2654

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EXAMINER	
MONSHIPOURI, MARYAM	
ART UNIT	PAPER NUMBER
1653	

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/523,014	YANNONI ET AL.	
	Examiner	Art Unit	
	Maryam Monshipouri	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-54 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-54 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 1-11, 20, 55-61, drawn to host cells comprising DNA sequences encoding an MK2/STS complex, methods of expressing said DNA sequences, their expression products and compositions comprising said products.

Group 2, claim(s) 1-11, 20, 55-61, drawn to host cells comprising DNA sequences encoding an MK2/Shc complex, methods of expressing said DNA sequences, their expression products and compositions comprising said products.

Group 3, claim(s) 1-11, 20, 55-61, drawn to host cells comprising DNA sequences encoding an MK2/HPH2 complex, methods of expressing said DNA sequences, their expression products and compositions comprising said products.

Group 4, claims 12-16, drawn to modulators of MK2/protein interactions and assay utilizing said modulators.

Group 5, claims 17-18, drawn to antibodies which bind MK2/STS or inhibit their interaction with STS.

Group 6, claims 17-18, drawn to antibodies which bind MK2/Shc protein or inhibit Mk2 interaction with Shc.

Group 7, claims 17-18, drawn to antibodies which bind MK2/HPH2 Protein complex or inhibit MK2 interaction with HPH2.

Group 8, claim 19, drawn to a method of modulating formation of MK2/STS utilizing modulators.

Group 9, claim 19, drawn to a method of modulating formation of MK2/HPH2 utilizing modulators.

Group 10, claim 19, drawn to a method of modulating formation of MK2/Shc utilizing modulators.

Group 11, claims 21-25, 28-31, drawn to a method of drug screening comprising utilizing MK2/STS protein complex.

Group 12, claims 21-25, 26, 28-31, drawn to a method of drug screening comprising utilizing MK2/Shc protein complex.

Group 13, claims 21-24, 27-31, drawn to a method of drug screening comprising utilizing MK2/HPH2 protein complex.

Group 14, claims 32-33, drawn to method of modulating inflammation utilizing DNA encoding MK2/STS protein complex.

Group 15, claims 32-33, drawn to method of modulating inflammation utilizing DNA encoding MK2/Shc protein complex.

Group 16, claims 32-33, drawn to method of modulating inflammation utilizing DNA encoding MK2/HPH2 protein complex.

Group 17, claims 34-41, drawn to method of treating inflammation utilizing an agent that blocks MK2 activity or blocks its interaction with other proteins.

Group 18, claim 42, drawn to method of modulating inflammation in a tissue comprising contacting said tissue with an MK2 binding agent.

Group 19, claims 43-46, drawn to a method of treatment comprising administering an agent that interacts with MK2 activity or with an MK2/protein complex.

Group 20, claims 47-48, drawn to a method of expressing DNA encoding modulators of MK2 or MK2/STS complex formation in a cell.

Group 21, claims 47-48, drawn to a method of expressing DNA encoding modulators of MK2 or MK2/Shc complex formation in a cell.

Group 22, claims 47-48, drawn to a method of expressing DNA encoding modulators of MK2 or MK2/HPH2 complex formation in a cell.

Group 23, claims 49-54, drawn to a method of detecting presence or absence of MK2 in sample utilizing modulators of MK2 or MK2/STS complex.

Group 24, claims 49-54, drawn to a method of detecting presence or absence of MK2 in sample utilizing modulators of MK2 or MK2/Shc complex.

Group 25, claims 49-54, drawn to a method of detecting presence or absence of MK2 in sample utilizing modulators of MK2 or MK2/HPH2 complex and kits comprising said modulators.

The inventions listed as Groups 1-25 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical features of Groups 1-10 and are DNA encoding MK2/STS protein complex, DNA encoding MK2/Shc protein complex, DNA encoding Mk2/HPH2 protein complex, MK2 modulators, antibodies which bind MK2/STS, antibodies which bind MK2/Shc, antibodies which bind MK2/HPH2 protein , MK2/STS protein (or method of use thereof) , MK2/Shc (or method of use thereof) and MK2/HPH2 protein (or method of use thereof),respectively which are each directed to products of unrelated chemical structure and function.

Inventions of Groups 1, 14 and 20 share a special technical feature, namely DNA encoding MK2/STS complex but said inventions are not required to be rejoined under Pct Rule 13.1 because Group I invention already has a method of sue of DNA. Inventions of Groups 2, 15 and 21 share a special technical feature, namely DNA encoding MK2/Shc complex but said inventions are not required to be rejoined under Pct Rule 13.1 because Group I invention already has a method of sue of DNA. Inventions of Groups 3, 16 and 22 share a special technical feature, namely DNA encoding MK2/HPH2 complex but said inventions are not required to be rejoined under Pct Rule 13.1 because Group I invention already has a method of sue of DNA.

Inventions of Groups 4, 17, 18, 19 and 22 share a special technical feature, namely MK2 modulators but said inventions are not required to be rejoined under Pct Rule 13.1 because Group 4 invention already has a method of sue of Mk2 modulators.

Inventions of Group 8, 11, and 23 share a special technical feature, namely MK2 /STS protein complex (or a method of use thereof) but said inventions are not required to be rejoined under Pct Rule 13.1 because Group 8 invention already has a method of sue of MK2/STS complex.

Inventions of Group 9, 13, and 25 share a special technical feature, namely MK2 /HPH2 protein complex (or a method of use thereof) but said inventions are not required to be rejoined under Pct Rule 13.1 because Group 9 invention already has a method of sue of MK2/HPH2 complex.

Inventions of Group 10, 12, and 24 share a special technical feature, namely MK2 /Shc protein complex (or a method of use thereof) but said inventions are not required to be rejoined under Pct Rule 13.1 because Group 10 invention already has a method of sue of MK2/Shc complex.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not

distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or other wise include all the limitations of the allowable product claim will be rejoined in accordance with the provision of MPEP section 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and he rejoined process will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104, Thus, to be allowable, the rejoined clams must meet all the criteria for patentability including the requirement of 35 U.S.C. 101, 102, 103 and 112. Until an alerted product claims is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined, See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. section 103(b)," 1184 O.G. 86(March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include limitations of the product claim. **Failure to do so may result in a loss of the right to rejoinder.**

Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP section 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maryam Monshipouri whose telephone number is (571) 272-0932. The examiner can normally be reached on 7:00 a.m to 4:30 p.m. except for alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weber Jon P. can be reached on (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MMonshi

Maryam Monshipouri Ph.D.

Primary Examiner

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